ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance	CC Dkt. No. 97-172

REPLY COMMENTS OF BELL ATLANTIC

The oppositions to U S WEST's petition are largely based on a body of law that is no longer relevant — the cases interpreting the "interexchange telecommunications services" restriction in the AT&T consent decree. AT&T is simply dead wrong when it claims that "[b]ecause [a] . . . service would have violated the MFJ, it now violates section 271."[1]

The Telecommunications Act of 1996 superseded the decree and changed the terms of the long distance restriction on the Bell companies. As Bell Atlantic[2] demonstrated in its comments, that restriction, as set out in section 271(a) and defined in section 3 of the Act, does not prohibit a Bell company from providing all national directory assistance services.

In particular, U S WEST, Bell Atlantic and others have explained that the Act's restriction is different from the decree's and that the prohibited interLATA service under the Act includes only those services where the Bell company provides "interLATA transmission," that is

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[1] Comments of AT&T ("AT&T Opp.") at 3. Of course, section 271(f) provides that any service that was permitted under the decree is also permitted under section 271, but there is no need to consider this grandfathering provision if a service is permitted without it.

[2] The Bell Atlantic telephone companies are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

the physical carriage of traffic across a LATA boundary Without an interLATA transmission, there is no prohibited interLATA service.

Both AT&T[3] and MCI[4] rely on decisions interpreting the decree's interexchange restriction to go beyond prohibiting the Bell companies from providing interLATA transmissions and included "interLATA functions" as well. These cases actually support Bell Atlantic's position. In coming to the conclusion that the decree prohibited interLATA functions, Judge Greene relied on the fact that if the only thing prohibited were interLATA transmissions, then that's what the decree would have said.[5] This, however, is precisely what the Act *does* say when, in sections 3(21) and 3(43), it defines the prohibited interLATA service as "transmission between points specified by the user located in a local access and transport area and outside such area." Congress was well aware of the decree and the way it had been interpreted and consciously departed from the decree's terms to re-define the interLATA restriction to be limited to interLATA transmissions.[6]

MCI's attempt to find support for its position from other sections of the Act also supports Bell Atlantic's argument. MCI claims that the joint marketing provisions in section 272(g)(2) would not have been necessary if interLATA service was limited to interLATA transmission, because the Bell operating company would not have needed the authority granted by the provision in order to market its affiliate's interLATA service.[7] MCI has it backwards. Section

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[3] AT&T Opp. at 5-6.

[4] Comments of MCI Telecommunications Corp. ("MCI Opp.") at 8-10.

[5] *United States v. Western Elec. Co.*, 627 F. Supp. 1090, 1100-02 (D.D.C. 1986).

[6] MCI also claims that, if national directory assistance is adjunct to basic, then it must be a "telecommunications service" and, therefore, potentially an "interLATA service." MCI Opp. at 6-7. This, of course, is incorrect because there is no automatic correspondence between the Telecommunications Act definitions written in 1996 and the Commission's regulatory classifications developed a decade earlier.

[7] MCI Opp. at 11-12.

272(g)(2) is not an authorization, but rather is a restriction of limited duration on the activities of the Bell companies. That section states:

> "A Bell operating company may not market or sell interLATA service provided by an affiliate required by this section within any of its in-region States until such company is authorized to provide interLATA services in such State under section 271(d)."

This provision was written this way because nothing else in the Act prevented a Bell company from marketing its affiliate's interLATA services in region before the affiliate had received in-region authority.[8] If MCI were correct, this provision would not have been necessary because the section 271(a) prohibition would have accomplished the same result.

It is clear, then, that if the Bell company does not provide an underlying interLATA transmission, there is no interLATA service. However, even if the Bell company does provide an interLATA transmission, the service may *still* be permitted, in particular if it was an interLATA transmission the Bell companies were permitted to handle under the AT&T consent decree, such as "official services" described by the decree court in 1983. AT&T spends several pages erroneously discussing these services,[9] but the simple facts are that the interLATA transmissions that could be used to provide a national directory assistance service — transmissions between the Bell company and its customers and between Bell employees and Bell computers — are included within the court's definition[10] and the court clearly held the Bell companies could carry across LATA boundaries "directory assistance calls from Operating Company customers."[11]

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[8] Even under this provision, a Bell company may market other carriers' interLATA services before the affiliate receives in-region authority.

[9] AT&T Opp. at 5-8.

[10] *United States v. Western Elec. Co.*, 569 F. Supp. 1057, 1098 n.179 (D.D.C. 1983).

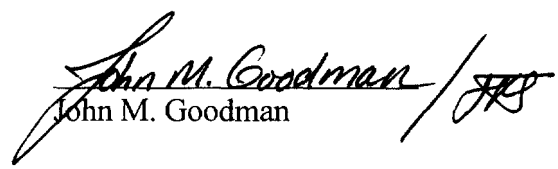
[11] *Id.*

National directory assistance is a useful service for consumers. It permits callers to get telephone numbers from all across the country with just a single call, rather than having to make multiple calls (and incur multiple charges) to different directory assistance services. With national directory assistance, callers need not know the area code of the number they want — an increasingly challenging task with the explosion of new codes. Modern database technology and the accumulation of accurate listings in large depositories make the traditional localized architecture of this service unnecessary. There is no good reason to exclude the Bell companies from offering this service, and consumers can only benefit from having more providers in the marketplace.

Conclusion

Bell Atlantic urges the Commission to promptly grant U S WEST's petition.

Respectfully submitted,



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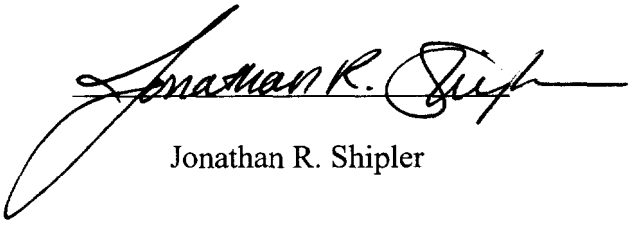
Dated: September 17, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 1997, a copy of the foregoing "Reply Comments of Bell Atlantic" was served by first class U.S. mail, postage prepaid, on the parties listed on the attached service list.



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